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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,094	01/02/2004	Sean William Tucker	10017979-3	1332

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EXAMINER

FLANDRO, RYAN M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/751,094	TUCKER, SEAN WILLIAM
	Examiner	Art Unit
	Ryan M Flandro	3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Priority

2. In view of Applicant's amendment and arguments submitted 13 August 2004, the Examiner's objection to the specification and priority claim is hereby withdrawn.

Claim Objections

3. The objections set forth in the previous Office action have been overcome.

Claim Rejections - 35 USC § 102

4. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by McIntyre (US 4,097,012).

- a. Claim 1. McIntyre shows and discloses a plurality of rotatably positionable bracket assemblies 30, each of said bracket assemblies 30 including a pair of "L" brackets 30, each of the "L" brackets 30 having a first leg 32 and a perpendicular second leg 31; rigid fasteners A for removably joining together the first legs 32 of said "L" brackets 30, wherein the first legs 32 of said "L" brackets 30 are separated by space, and rotatable fasteners 23a for rotatably fastening the second leg 31 of one of said "L" brackets 30 to said structure 22 and for rotatably fastening the second leg 31 of the other "L" bracket 30 to said support 20,11. (see figure 1 and annotated figure 4 below).

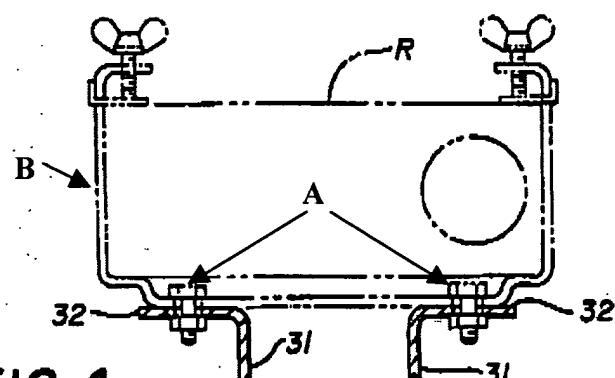
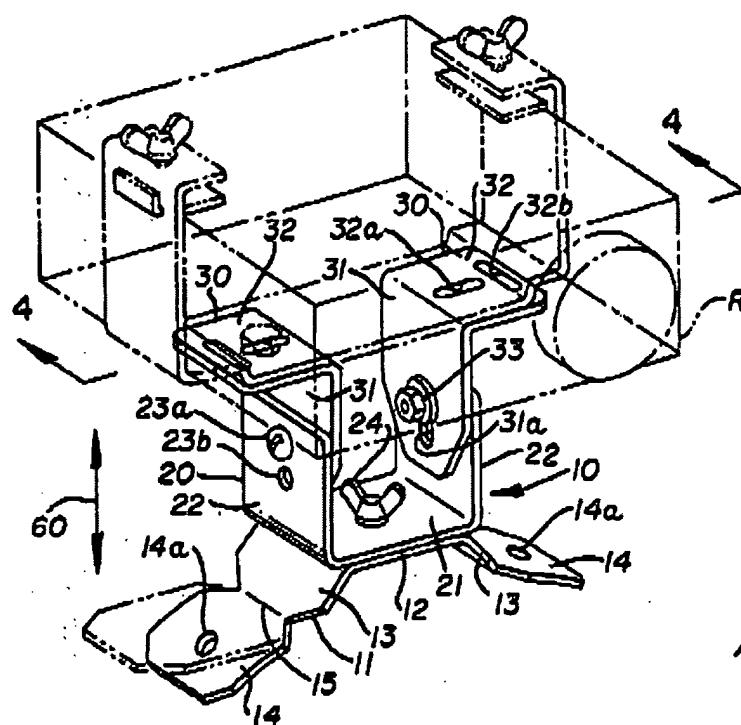


FIG. 4

- b. Claim 2. McIntyre further shows said rotatable fasteners 23a an assembly screw 23a and an insert 33 (see figure 1 above).
- c. Claim 3. McIntyre further shows said insert 33 is a threaded insert and said assembly screw 23a screws into said threaded insert 33 (see figure 1 above).

- d. Claim 4. McIntyre further shows said rigid fasteners A comprise machine screws A (see annotated figure 4 above).
- e. Claim 5. McIntyre further shows said bracket assemblies 30 having a common axis of rotation (see figure 1 above – the axis running longitudinally through members 23a).
- f. Claim 6. McIntyre further shows said second legs 31 of each pair of said "L" brackets 30 rotatably fastened to said structure 22 further comprises at least one ear 32 for manual positioning of said fastening system (see annotated figure 4 above).
- g. Claim 7. McIntyre further shows said rigid fasteners A adapted for connecting a first bracket assembly 30 to a second bracket assembly 30 in at least two positions along a rotational axis (see the figures above).

Double Patenting

- 5. In view of Applicant's arguments, the provisional obviousness-type double patenting rejection is hereby withdrawn.

Response to Arguments

- 6. The Examiner first notes that Section IV of Applicant's response (page 5) shows the heading "Rejection(s) under 35 U.S.C. §102(e)". For clarification, claims 1-7 were rejected under 35 USC §102(b) as being anticipated by McIntyre.

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7. Applicant's arguments filed 13 August 2004 have been fully considered but they are not persuasive. The claims as currently drafted do not positively recite the various elements as being connected, and therefore do not unequivocally require a particular configuration. For example, claim 1 recites a plurality of L brackets having first and second legs, a rigid fastener *for* removably joining the first legs, and rotatable fasteners *for* rotatably fastening the second legs to a support and a structure. The dependent claims are not seen to further limit the independent claim in terms of positively reciting the particular connecting relationship of one element relative to the others.

Thus, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., rigid fasteners removably joining together the first legs of "L" brackets) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Accordingly, McIntyre, as applied above in detail, is understood to show and disclose each of the aforementioned elements as recited in the claims.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952. The examiner can normally be reached on 9:00am- 6:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMF
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November 1, 2004



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